TEXAS & NEW ORLEANS RAILROAD COMPANY *v.* GROSS.

ERROR TO THE COURT OF CIVIL APPEALS FOR THE FOURTH SUPREME JUDICIAL DISTRICT OF THE STATE OF TEXAS.

No. 832. Submitted April 17, 1911.—Decided May 15, 1911.

Decided on authority of *Texas & New Orleans R. R. Co.* v. *Miller, ante*, p. 408.

THE facts are stated in the opinion.

Mr. Maxwell Evarts, with whom *Mr. H. M. Garwood* and *Mr. A. L. Jackson* were on the brief, for plaintiff in error.

Mr. J. W. Parker for defendant in error.

MR. JUSTICE VAN DEVANTER delivered the opinion of the court.

This is a companion case with *Texas & New Orleans R. R. Co.* v. *Miller*, just decided, *ante*, p. 408, and arose out of the derailment of the same engine. It took substantially the same course in the state courts, (128 S. W. Rep. 1173) and presents substantially the same questions.

For the reasons given in the other case, the motion to dismiss is denied, and that to affirm is granted.

Affirmed.